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OFFICE OF PETITIONS

In re Application of :
Claudia Cherney Stewart :
Application No. 10/662,848 : DECISION ON PETITION
Filed: September 15, 2003 :
Attorney Docket No. JG-RP- :
4796CIP-C/500561.20 :
Title: METHOD OF ADENOVIRUS, :
HIV AND HPV PROPHYLAXIS :
:

This is a decision on the petition filed February 9, 2004, requesting that pages thirty and thirty-one of the specification be accorded a filing date of September 15, 2003, as part of the original disclosure.

The application was deposited on September 15, 2003. However, on December 8, 2003, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Item(s) in a Nonprovisional Application - Filing Date Granted" (Notice), stating that the application had been accorded a filing date of September 15, 2003 and advising applicant that pages thirty and thirty-one of the specification appeared to have been omitted.

In response, on February 9, 2004, applicants filed the present petition. The petition is further accompanied by the petition fee, a copy of the missing pages of the specification, and a copy of applicants' postcard receipt acknowledging receipt of "39 pages Spec, Claims & Abstract" in the United States Patent and Trademark Office (Office) on September 15, 2003. Applicants request that pages thirty and thirty-one of the specification be accorded a filing date of September 15, 2003.

It is noted that thirty pages of specification, six pages of claims, and a one page abstract have been found in the electronic file. The copy of the specification which is located in the electronic filed does not contain pages thirty and thirty-one.

Upon review of the record, the above-mentioned pages of the specification has not been located among the application papers. However, the evidence is convincing that the application papers deposited on September 15, 2003 included pages thirty and thirty-one of the specification, and these two pages of the specification was subsequently misplaced in the Office.

Therefore, the application, including pages thirty and thirty-one of the specification, was complete on filing and entitled to a filing date of September 15, 2003, as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed December 8, 2003, was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee of \$130 has been refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of September 15, 2003, using the original application papers filed on that date, as well as pages thirty and thirty-one of the specification, submitted with the instant petition.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0011.


Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office